

ARTICLE 13 — BOARD OF PAROLE HEARINGS

Revised March 29, 2006

62090.1 Policy

PC 3040 provides that the Board of Parole Hearings (BPH) shall have the power to allow prisoners imprisoned in the state prisons, to go upon parole, outside the prison walls and enclosures, pursuant to PC 1168(b).

62090.2 Purpose

This section establishes standard procedure for conducting required BPH hearings and preparation of the institutional BPH evaluation reports.

62090.3 Importance of Board Hearings

One of the most important times during incarceration for certain inmates and parole violators is their appearance before the BPH. All life sentence prisoners must appear before the BPH to be considered for parole. Those inmates sentenced under the Indeterminate Sentence Law (ISL) or sentenced prior to 1985 to a term of one year and one day appear before the Board that provides them an opportunity for parole consideration. Inmates sentenced to one year and one day for offenses occurring after January 1, 1985 do not appear before the BPH.

The BPH rules are set forth in CCR (15) (2) and in Administrative Directives issued by the BPH.

62090.4 Board Personnel

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62090.5 Types of Board Hearings

Life prisoner hearings:

- Documentation Hearing.
- Initial Parole Consideration Hearing.
- Subsequent Parole Consideration Hearing.
- Progress Hearing.
- Rescission Hearing.

Non-life Prisoner hearings [PC 1168(b)]:

- Parole Consideration Hearing.
- Rescission Hearing.
- Extended Term Hearing, [PC 1170.2(b)].
- Mentally Disordered Offender Hearing, (PC 2960-2962).

Parole violator Hearings:

- Revocation Hearing.
- Parole Revocation Extension Hearing.

62090.5.1 Life Prisoner Hearings

The following are the different types of hearings for life prisoners.

62090.5.1.1 Documentation Hearing

Inmates committed for first or second degree murders that occurred on or after November 8, 1978 and inmates committed pursuant to PC 667.51, 667.7 and 217.1 shall have a hearing prior to their minimum eligible parole date.

The Documentation Hearing is conducted by one Deputy Commissioner. The purpose of this hearing shall be to monitor and document the institutional adjustment of each life prisoner. The inmate's counselor shall complete a Life Prisoner Post-conviction Progress Report which covers the period of time from the inmate's reception into CDCR, or from the date the life term began, whichever is latter, to the hearing, if it is the first documentation hearing, or for the period from the last documentation

hearing for which a Post-conviction Progress Report was prepared to the present hearing.

The first documentation hearing shall be scheduled during the 36th month after the life term starts. Subsequent documentation hearings shall be held at three-year intervals until the Initial Parole Consideration Hearing.

62090.5.1.2 Initial Parole Consideration Hearing

An Initial Parole Consideration Hearing is conducted by a panel of three, of which at least two are BPH Commissioners. This hearing may include an attorney representing the inmate, a DA representing the county in which the crime occurred, and the victim or next of kin representing a victim. The purpose is to consider the inmate's suitability for parole and, if suitable, establish a term. The hearing is scheduled 13 months before the inmate's minimum eligible parole date (MEPD). A Post-conviction Progress Report and a Life Prisoner Evaluation Report shall be completed by the inmate's counselor for use in the hearing.

62090.5.1.3 Subsequent Parole Consideration Hearing(s)

A Subsequent Parole Consideration Hearing is held for those inmates previously found unsuitable for parole and conducted for the same purpose and in the same manner as an Initial Hearing. As with the Initial Parole Consideration Hearing, the Subsequent Hearing is conducted by a panel of three, at least two of which are BPH Commissioners. It is scheduled one to three years after the hearing in which an inmate was found unsuitable for parole. An abbreviated Life Prisoner Evaluation Report shall be prepared for this hearing if the most recent previous hearing was conducted with the use of a complete Life Prisoner Evaluation Report. Abbreviated Evaluation Reports are not to be used in consecutive hearings. An updated Post-conviction Progress Report covering factors since the last Board appearance shall also be prepared.

62090.5.1.4 Progress Hearing

A Progress Hearing is held for life prisoners with parole dates to consider their institutional adjustment since the previous hearing. This hearing is conducted by a panel of three, at least two of which are BPH Commissioners. The purpose is to grant post-conviction credit. A Post-conviction Progress Report covering factors since the last Board appearance shall be prepared. Psychiatric evaluations are not prepared for Progress Hearings unless requested by the BPH.

62090.5.1.5 Rescission Hearing

A Rescission Hearing is held to consider if there is good cause to rescind or postpone a life prisoner's parole date for disciplinary, psychiatric or other specific reasons. No Board report is required.

62090.5.2 Non-Life Prisoner Hearing

The following are the different types of Non-Life Prisoner Hearings.

ISL Parole Consideration Hearing

An Indeterminate Sentence Law (ISL) Parole Consideration Hearing is held for certain inmates who committed crimes prior to July, 1977 and had Determinate Sentence Law (DSL) dates retro calculated. The purpose of this hearing is to provide these inmates with an opportunity to be considered for release under the ISL that may result in a lesser term than the DSL provides. It is scheduled a month before the inmate's MEPD and annually thereafter for inmates denied a parole date in the previous hearing.

PC 1168(b) Hearing

A PC 1168(b) Hearing is scheduled within 60 days after reception of inmates sentenced to a term not exceeding one year and one day under the ISL or under the same provision in the DSL. The purpose of this hearing is to set a term within the one year and one day range. No Board report is required if the inmate's hearing is within four months of reception.

ISL Rescission Hearing

A Rescission Hearing is held to consider if good cause exists to rescind an ISL parole date for disciplinary, psychiatric or other reasons. No Board report is required.

Extended Term Hearing

An Extended Term Hearing is held to consider an extension of the DSL retro calculated term in selected ISL cases. This hearing is scheduled within 120 days after the inmate's reception by the department or after receipt of an amended Abstract of Judgment. The decision to schedule a hearing is made by the BPH. Such hearing is conducted by a panel of

three; at least two of which are commissioners. No Board report is required.

Mentally Disordered Offender Hearings

A Mentally Disordered Offender Hearing is held to determine if good cause exists to require that an inmate be subject to mandatory in-patient treatment while on parole. PC 2962 and BPH 2570 et seq. identify the criteria leading to such consideration and the process governing such placement. This hearing is conducted by a panel of two Deputy Commissioners. No counselor generated Board reports are required.

62090.5.3 Parole Violator Hearing

A Parole Violator Hearing is held to consider if good cause exists to revoke a parolee's parole and return them to custody. These hearings are held at the local jail or at a parole violator processing facility within 45 days of arrest. Some parolees may be returned to prison before the hearing, as in the case of parolees with a severe mental illness, persons in overcrowded local facilities, or out-of-state absconders. Only the parole violation report and supporting documents are necessary.

62090.5.3.1 Parole Revocation Extension Hearing

A Parole Revocation Extension Hearing may be held to consider if good cause exists to extend the parole revocation period of a prisoner for in-custody misconduct. No counselor generated Board report is required. Charging document and supporting reports must be presented.

62090.6.1 Hearing Room

Hearing rooms shall give the appearance of dignity and decorum. When not scheduled for Board hearings, the rooms shall only be used for purposes that will maintain their hearing room value, such as, conferences, oral interviews or classification committee meetings.

At hearings, necessary supplies such as paper tablets, sharpened pencils, proper forms, a copy of the current Penal Code and BPH Rules, a listing of the institution's available programs and cold drinking water shall be provided. All tape recording equipment shall be checked to ensure good working condition during the hearing.

62090.6.2 Scheduling

Inmates shall be scheduled in a timely manner. The Board shall be informed in advance of any changes in the schedule.

62090.6.3 Case Files

All case files shall be complete and consistent, including hearing packets for panel members and attorneys. All case files of life prisoners to appear during the week shall be available.

62090.6.4 Board of Parole Hearings

Scheduled attendees, observers, and victims and victims' next of kin may attend individual case hearings if prior permission has been obtained from any person assigned to the subject hearing panel, the chairman, or the executive officer, BPH. Visitors and observers may not participate in the hearing except as permitted by law.

BPH Notification to Facility

BPH staff shall advise the Classification and Parole Representative (C&PR) of the institution to be visited of any BPH authorized attendees for any specific date. The C&PR shall provide a written notice to the visitor entrance gate of any anticipated victims, next of kin, victim representatives, and authorized visitors to the BPH hearings.

62090.6.4.1 Victim, Next of Kin, or Victim Representative

CDCR staff shall treat victims, next of kin, and their representatives attending BPH hearings with dignity and respect, and ensure their experience entering an institution is as accommodating as possible while maintaining the safety and security of persons and the institution. Victims, next of kin, and their representatives shall be notified of the BPH at least 30 days prior to the hearing.

Once the appearance of a victim, next of kin and their representative has been arranged, the Office of Victim and Survivor Services (OVSS) will provide attendees' names, addresses, and telephone numbers to the C&PR at the institution or facility where the hearing is to be held. The OVSS also will provide attendees with a BPH handbook.

No recording device or camera equipment is allowed. The institution/facility shall provide an escort for victims, next of kin, and/or

victim representatives at all times while they are in the facility's security area.

62090.6.4.2 Victim Service Representative

Each Warden of an institution where BPH parole eligibility hearings are held will ensure that the institution's C&PR is specifically assigned as the Victim Service Representative (VSR). The VSR shall be responsible for ensuring the duties and functions described below are completed by designated staff. The Assistant C&PR shall be assigned as the back-up VSR to ensure sufficient continuity of services. Procedures established within DOM Sections 62090.6.4.1 through 62090.6.4.7 shall pertain only to Victims, a Victims Next of Kin, or a Victim Representative, for the purpose of attendance at Lifer Parole Eligibility Hearings only.

The Warden shall ensure there is an operational procedure for the VSR position. The VSR or designee shall be responsible for the following:

- Making contact with attendees and answering any questions they may have.
- Explaining the BPH process, security screening procedures, required identification documents, and ensuring they received a copy of the BPH Hearing Handbook.
- Provide information to the attendee regarding appropriate attire to be worn into the facility. Appropriate attire shall conform to Title 15, CCR Section 3174 (a)(2) and (b)(1)(2)(3)(4).
- Asking attendees if they have any special needs such as medications, assistive devices or special foods or juice they will need to keep with them in the institution.
- Suggesting that attendees with medical implants containing metal bring available medical documentation/certification from a clinician identifying the location and type of any medical implant in order to expedite the screening process.
- Providing attendees with directions to the institution if necessary.
- Informing attendees that the VSR or designee will be awaiting their arrival.
- Ensuring all necessary paperwork to process the attendees into the institution has been completed and received.
- Asking attendees if they have documents or information they will be bringing to the hearing.
- Escort attendees to a waiting room near the BPH hearing area that is separate and apart from the inmate, his or her attorney, and any other attendees whose presence may be upsetting to the victim, next of kin, or their representatives.
- Ensuring the waiting room is supplied with at least tissue, water, note pads, and ink pens or pencils.
- Be present at the gate at least 10 minutes prior to the arrival time of the attendees in order to greet them and to assist with processing them into the institution.
- Ensuring the hearing room has appropriate accommodations.
- Remain with the attendees until the hearing begins and throughout the hearing. Attendees may, if desired, be escorted to a private area after the hearing and be given an opportunity to express their views about the hearing.
- Escort attendees back to the entrance building after the hearing and processes them out of the facility.

62090.6.4.3 BPH Hearing Attendee Screening

The following BPH attendee screening process is intended to ensure the safety of all persons entering CDCR institutions. The policy is based on standards and protocols employed by the United States Transportation Safety Administration.

Except as provided in this article, victims, next of kin, and their representatives attending BPH hearings are required to successfully pass through a metal detector or alternate screening process as described below as a condition of entering an institution where a hearing is to be held. Attendees should avoid wearing clothing items that contain metal as these items will set off the metal detectors. Attendees are to remove coats, jackets, and items that may set off the metal detector before attempting to pass through the metal detector. Attendees who do not successfully pass

through the metal detector will be subject to additional screening and may be denied entrance into the facility.

In the event an attendee is unable to successfully pass through the metal detector, CDCR custody staff shall use a hand held metal detection wand for a more localized search to identify the area(s) causing the alert.

If through the use of the hand held wand, custody staff can localize/isolate the area(s) which is causing the alert, a pat down of the area(s) will be conducted to determine the cause of the alert before being permitted into the institution.

Attendees who do not want to go through the metal detector or hand held wand screening may request a pat down search as an alternative.

Pat-down searches may also be required of attendees based on visual observations by custody staff, even if an audible alarm has not gone off.

Custody staff are required to communicate their actions to attendees prior to using hand-wands or conducting pat-down searches.

Custody staff are to use the back of the hand when patting-down sensitive body areas, which include the breasts (females only), genitals, and buttocks. For non-sensitive areas, including other parts of the torso, custody staff, are required to use the front of the hand. An attendee has the option to request a private screening location.

Custody staff of the same gender as the attendee will conduct pat-down searches. An additional custody staff of the same gender as the attendee shall be present-whenver a-pat-down search is conducted.

A companion, assistant, or family member may accompany attendees with disabilities or medical conditions and assist them during a private or public screening. After providing this assistance, the companion, assistant, or family member will need to be re-screened. An attendee may ask for a chair if he or she needs to sit down during the screening process. Attendees should be required to raise their arms out during an inspection only as far as they indicate they can. Attendees who refuse appropriate screening will not be permitted into the institution and will be unable to attend the BPH hearing.

Whenever there is an alarm in the area of a dressing or bandage, custody staff will conduct a gentle limited pat-down of the dressing or bandage area over top of the attendee's clothing. In the event custody staff is not able to determine that a dressing or bandage is free of prohibited items via a pat-down, the attendee may be asked to lift the specific clothing item covering the bandage to effect a visual search, i.e., lift pant leg or sleeve to expose the bandaged area prior to being permitted into the institution.

Custody staff will not ask to, nor will they remove a dressing or bandage during the screening process. However, if custody staff is still unable to determine that the bandage is free of prohibited items after the pat down and visual inspection, the attendee will be denied access to the institution and will be unable to attend the BPH hearing.

62090.6.4.4 BPH Attendees with Disabilities and Medical Conditions

Attendees with disabilities and medical conditions may present medical documentation regarding their medical condition or disability to custody staff to help inform him or her of their situation and facilitate the screening process. This documentation is not required and will not exempt the attendee from the security screening process.

Attendees should advise custody staff of an implanted pacemaker, other implanted medical device, or metal implant and where that implant is located. Attendees who have a pacemaker should (but are not required to) carry a Pacemaker Identification Card when going through security screening and shall be screened with a full body pat-down search instead of walking through the metal detector or being screened with a hand-wand.

If an attendee states that he or she should not go through the metal detector or be screened with a hand-wand because it could affect the functionality of their implanted medical device or the magnetic calibration of their implanted medical device, custody staff shall conduct a full body pat-down search prior to the attendee being permitted to enter the institution.

Prostheses, Assistive Devices, and Mobility Aids

Custody staff are to visually and physically inspect prosthetic devices, assistive devices, mobility aids, casts or support braces as part of the screening process. Custody staff will not ask nor require removal of prosthetic device(s), casts, orthopedic shoes or support braces. Attendees may be asked to lift specific clothing to effect a visual inspection of the

prosthesis or support brace, i.e., lift pant leg or sleeve to expose the prosthetic device.

Attendees will not be required to remove medical devices, such as an insulin pump, feeding tube, ostomy or urine bag at any time during the screening process. Attendees are to advise screeners if they have an ostomy or urine bag. Attendees are not required to expose these devices for inspection unless the hand held metal detection device is set off, at which point a visual and physical inspection (pat-down of the area, over top of clothing) will be conducted to ensure there are no prohibited items being concealed in the area.

Attendees who require use of a wheelchair shall not be required to pass through the metal detector nor be asked to transfer to another wheelchair for screening purposes. Custody staff shall affect a visual and physical inspection of their wheelchair. Custody staff shall then use a hand held wand to search the attendee.

Augmentation devices attached to wheelchairs are permitted through the screening process once they have undergone visual and physical inspection.

The following medical and disability-related assistive devices needed by attendees during the BPH process are permitted into the institution; however, they are subject to inspection and search.

The assistive devices will be itemized on CDC Form 1000. Smaller items, such as necessary medications, scissors, and syringes shall be placed in a container provided by the institution and carried into the institution/hearing. The contents of the container will be accounted for via the CDC Form 1000 upon exiting the facility. All other items that are not needed during the hearing will be either left in the entrance building in a locker or returned to the attendees' vehicle:

- Wheelchairs, scooters, crutches, casts, canes, walkers, prosthetic devices, support braces, exterior medical devices.
- Orthopedic shoes and appliances, augmentation devices, Braille note takers, slate and stylus.
- Ostomy-related supplies such as positioning plates (wafers), collection pouches and scissors (blunt tipped.)
- Service animals such as dog guides, assistance, hearing and seizure alert dogs, monkey helpers.
- Supplemental personal medical oxygen containers/systems and other respiratory-related equipment and devices.
- All diabetes related equipment and supplies, including:
 - Insulin and insulin loaded dispensing products (vials, jet injectors, pens, infusers, and preloaded syringes).
 - Unused syringes when accompanied by insulin or other injectable medication.
 - Lancets, blood glucose meters, blood glucose meter test strips, alcohol swabs, meter-testing solutions.
 - Insulin pump and insulin pump supplies (cleaning agents, batteries, plastic tubing, infusion kit, catheter, and needle).
 - Glucagon emergency kit.
 - Urine ketone test strips.
 - Sharps disposal containers or similar hard-surface disposal container for storing used syringes and test strips.
- All types and forms of medication, dispensers, and related supplies necessary for the attendee during the BPH process.

All medications, including insulin, in any form or dispenser must be clearly identified. Attendees who are concerned about going through the walk-through metal detector with their insulin pump may request a full-body pat-down search and a physical inspection of their pump instead. Insulin pumps and supplies must be accompanied by insulin.

Hearing and Visual Disabilities

Attendees are not required to remove hearing aids or the exterior component of a cochlear implant during the screening process. Exterior components of a cochlear implant are to be visually and physically inspected while it remains on the attendee's body.

Custody staff are to explain the security process to persons with visual disabilities and verbally communicate with them throughout each step of

the screening process. Screeners are to provide persons with visual disabilities with assistance by providing them with an arm, hand, or shoulder as they move through the process. White collapsible canes are to be physically inspected after attendees have passed through the walk-through metal detector so that attendees can guide themselves through the walk-through metal detector. Equipment such as Braille note-takers are to be physically inspected.

Medical Oxygen and Respiratory-Related Equipment

Supplemental personal medical oxygen and other respiratory-related equipment and devices (e.g. nebulizer, respirator) are permitted through the screening process once they have undergone screening. All respiratory equipment and oxygen will be visually and physically inspected. Attendees are not required to disconnect from their oxygen or respiratory device.

Service Animals

Attendees using an animal for assistance should carry appropriate identification. Identification may include: cards or documentation, presence of a harness or markings on the harness, or other credible assurance of the attendee using the animal for their disability. At no time during the screening process will attendees be required to be separated from their service animal. Custody staff will not touch service animals. Attendees are required to maintain control of the animal in a manner that ensures the animal cannot harm the screener. Attendees are to advise the screener how they and their animal can best achieve screening when going through the metal detector as a team (i.e., walking together or with the service animal walking in front of or behind the attendee). If the walk-through metal detector alarms in the situation where the attendee and the animal have walked together, both the attendee and the animal must undergo additional screening. If the walk-through metal detector alarms on either the attendee or the animal individually (because they walked through separately), additional screening must be conducted on whoever alarmed the walk-through metal detector. If the animal alarms the walk-through metal detector, custody staff will ask the attendee or companion to remove the animal's collar, harness, leash, backpack, vest, etc., for staff inspection prior to being permitted into the institution.

62090.6.4.6 Religious or Cultural Items

Attendees are permitted to wear their head covering including those who wish to keep their faces covered during the screening process. If the attendee cannot successfully pass through the metal detector, the attendee will be re-screened using hand-wands and a pat-down search as described above. The only exception to this policy is if the alarm is still unresolved, the attendee may request the opportunity to remove the head covering in a private screening area before custody staff of the same gender to clear security.

Religious, cultural, or ceremonial items that pose a risk to the safety of staff or the security of institutions, such as religious knives, swords, etc., are not permitted inside the institution.

62090.6.4.7 Identification and Additional Materials

In accordance with Title 15, CCR Section 3173, and Department Operational Manual (DOM) Proof of Identity, all adults attending BPH hearings shall present acceptable government-issued identification.

Victims, next of kin, and/or their representatives attending a BPH hearing are permitted to bring the following personal items with them to the hearing, in addition to the items allowed pursuant to this article and for visitors in general pursuant to DOM Section 54020.15:

- Food items such as whole fruit, a sealed candy bar or sealed granola bar, upon inspection and approval;
- Writing materials, documents, and a book, upon inspection and approval.

62090.6.5 Media/Television Coverage of BPH Hearings

CCR (15) (2) 2031 covers media representation at hearings, and CCR (15) (2) 2032 covers television and radio coverage of BPH hearings. No television coverage shall occur without approval of the Warden.

BPH staff shall coordinate these activities with the affected institution's Warden. The PIO shall provide written notice to the entrance building of authorized media, TV and radio personnel as well as any approved equipment.

Media personnel shall be escorted to and from the BPH hearings by custodial staff.

62090.6.6 Custodial Coverage of BPH Hearings

BPH hearings shall be provided custodial coverage. One officer shall be assigned to BPH coverage for the duration of the scheduled hearings. When security needs require additional staff, determined by the Warden or their designate, they shall be assigned.

- Custodial staff assigned to BPH coverage shall wear Class A uniforms.
- Custodial staff providing BPH coverage shall carry handcuffs, handcuff key, and a personal alarm device and have immediate access to a set of waist chains. Other necessary equipment may be utilized if approved by the Warden.

Duties of Coverage Officer

The assigned officer shall secure safety equipment and report to the BPH hearing area in sufficient time to:

- Perform a security inspection of the board room(s) and adjacent areas.
- Process the first scheduled inmate into the board waiting area at least 15 minutes prior to the starting time of the hearing.

Only inmates scheduled for BPH hearings shall be allowed in the boardrooms or affected areas.

- Each inmate shall remain under the direct supervision of custodial staff. The BPH coverage officer shall be physically present in the hearing room unless specifically directed otherwise by BPH commissioners.
- Each inmate shall be given a clothed body search each time the inmate enters or departs the BPH hearing room.
- Inmates may bring into the BPH area or hearing room only material absolutely essential to their hearing. This material shall be inspected (not read) each time the inmate enters or departs the hearing room.

When security requirements dictate special security precautions, the BPH commissioners shall be advised prior to the hearing.

62090.6.7 BPH Parking Areas

BPH staff shall be provided designated parking spaces in the employee parking lot. On scheduled BPH hearing days, institution staff shall ensure that the designated spaces are available to BPH staff.

62090.6.8 BPH Staff Processing Into Facility

BPH staff shall be processed through the facility staff entrance building in the same procedure used for institution staff.

- Personal effects shall not be searched, however, briefcases, etc., shall be inspected.
- Positive identification is required.
- BPH staff shall sign the visitor register upon entering and leaving the institution.
- Escorts for BPH staff are not required.
- Escorts for BPT staff are not required.

62090.7 C&PR

Each institution's C&PR office is responsible for the preparation, coordination and follow-up for all Board hearings and related matters.

The C&PRs shall schedule their time during Board hearings to ensure full availability to meet Board needs.

When the Board recommends that an inmate be involved in vocational, educational, other upgrading programs, or that an inmate be transferred to another institution for diagnosis and/or evaluation for treatment, the C&PR shall follow-up as required.

62090.8 Institutional Board Reports and Preparations

Institutional Board reports are the responsibility of Correctional Counselors utilizing the formats described in this section. Board reports shall be completed in a thorough, concise and timely manner. Counselors may attend Board hearings as a learning process or if requested by an inmate, but are not expected to attend all hearings.

Non-Correctional Counselor staff may prepare reports under the close guidance of a supervising counselor. The completed Board report shall be signed by the non-Correctional Counselor employee and countersigned by the counselor or captain overseeing the work after the administrator has reviewed the report to ensure its validity and completeness.

Before preparing a summary evaluation for the Board, the entire C-File and other pertinent files, such as the medical or psychiatric file, shall be reviewed. Any erroneous data shall be corrected. Source documents required by the Board or considered important for the Board's attention shall be removed, reviewed, have important content underlined, and be routed with the Board report to the C&PR.

62090.9 Inmate Copy of Board Reports

Prior to a scheduled appearance, the inmate shall be given a copy of all non-confidential portions of any report prepared for the Board.

Inmates shall be afforded an opportunity to discuss any aspect of the report they question with the counselor. If an issue is not resolved, it shall be clearly identified and efforts made to resolve it shall be noted. Such differences shall be documented in an addendum report to the Board, a copy of which shall also be sent to the inmate. The inmate may also prepare a statement regarding their disagreement with the report that shall become part of the material presented to the Board.

62090.10 Use of Reports

A Post-conviction Progress Report shall be utilized for Documentation, Initial, Subsequent, and Progress Hearings.

A Life Prisoner Evaluation Report shall be utilized for Initial and alternate Subsequent Hearings. Abbreviated Life Prisoner Evaluation Reports will be used for alternate Subsequent Parole Consideration Hearings.

For non-life ISL prisoner hearings, the old format BPH Hearing Report shall be used.

62090.11 Life Prisoners Two-Part Format

For all Life Parole Consideration hearings, a two-part format shall be used.

62090.11.1 Post-Conviction Progress Report

A simple year-by-year outline of the inmate's adjustment shall be prepared to reflect 12-month increments (i.e., 6/79 to 6/80 or 5/80 to 5/81) covering the period from the date term began or from the date of reception, whichever is latter to the present. Post-conviction Progress reports prepared for Subsequent Hearings will reflect behavior in 12-month increments covering the period of time since the most recent post-convictions progress report was prepared. It shall include prison placement, custody level (explain reason for any increased custody or specialized housing such as MAX, PHU, and SHU), work/training/program assignments, grades achieved, disciplinary violations, adverse or laudatory chronos, and any other significant events. Ensure that dates are noted, including the beginning and ending dates of programs.

Telegraphic writing style shall be used, as the emphasis is upon brevity, accuracy and clarity. Any previous hearing reports shall be retained, compiled and reused so that only a brief report to update the inmate's adjustment since the last report is necessary.

62090.11.2 Life Prisoner Evaluation Report

A comprehensive evaluation of the life prisoner's past pattern of criminal behavior and changes while in prison shall be prepared for Parole Consideration Hearings. The report is divided into commitment factors, pre-conviction factors, post-conviction factors, and parole plans.

A thorough study of the C-file, staff observations and an interview with the inmate shall be accomplished to complete the report.

The report's format provides a comprehensive evaluation for the Initial Parole Consideration Hearing and shall be retained for use at all Subsequent Parole Consideration Hearings.

62090.11.2.1 Extenuating Factors

The following shall be judiciously considered and incorporated within the report when completing life prisoner evaluation reports.

62090.11.2.1.1 Aggravating Circumstances

The crime involved some factors described in BPH Rule 2403(b) or (c), as appropriate, in a category higher on either axis than the categories chosen as most closely related to the crime.

- The victim was particularly vulnerable due to age, physical or mental condition.
- The inmate occupied a position of leadership or dominance over other participants in commission of the crime, or they induced others to participate.
- The inmate had a history of criminal behavior for which the term is not being enhanced under BPH Rule 2286.
- During the commission of the crime the inmate had a clear opportunity to cease but instead continued.
- The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which they are currently committed.
- The inmate had a special relationship of trust with the victim, such as that of employee-employer.
- The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime.
- The inmate was on probation, parole, in custody or had escaped from custody at the time the crime was committed.
- Specific circumstances in aggravation of first degree murder (PC 187):
 - The murder was wanton and apparently senseless in that it was committed after another crime occurred and served no purpose in completing that crime.
 - The corpse was abused, mutilated or defiled.
 - The inmate went to great length to hide the body or avoid detection.
 - The murder was committed to prevent the testimony of potential or actual witnesses at a trial or investigation.
 - The murder was committed to prevent discovery of another crime.
 - The murder was committed by a destructive device or explosive.
 - There were multiple victims for which the term is not being enhanced under BPH Rule 2286.
- Specific circumstances in aggravation of kidnapping for robbery or ransom (PC 209).
 - The incident involved multiple victims.
 - The property/ransom which the inmate had taken or attempted to take was valued at \$25,000 or more.
 - The kidnapping posed a threat to the public order, such as where the victim was a public official.

62090.11.2.1.2 Mitigating Circumstances

The crime involved some factors described in the approximate matrix in a category lower on either axis than the categories chosen as most closely related to the crime.

- The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense.
- The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission.
- The inmate tried to help the victim, sought aid after the commission of the crime or tried to dissuade a crime partner from committing other offenses.
- The inmate has a minimal or no history of criminal behavior.
- The inmate was a passive participant or played a minor role in the commission of the crime.
- The crime was committed during or due to an unusual situation unlikely to recur.
- The crime was committed during a brief period of extreme mental or emotional trauma.

62090.11.3 Non-Life Prisoner Evaluation Format

The format described below shall be used for non-life prisoner hearings.

Purpose of hearing. Specify in capital letters the type of hearing:

- ISL INITIAL PAROLE HEARING.
- ISL SUBSEQUENT PAROLE HEARING.

Custody

Institutional history. Reflect past and present custodies, and their duration in months. Explain the reason for any increased custody specialized housing such as SHUs or PHUs.

Transfers

Summarize any transfers during the reported period or since the inmate's reception, recording the most recent transfers first and indicating the reason for the transfers.

Program Record

Program record. (Omit sections that are not applicable.)

- Academic education. State the education level at reception. Evaluate ability to learn (IQ), and chronologically summarize academic achievements and motivation, as reported by the Education Department, since the inmate's reception.
- Vocational instruction. Chronologically summarize all past and current training being received and achievements. Note past and anticipated dates of completion. If terminated without completing a course, summarize the reasons.
- Work. Chronologically list all past and current work assignments, noting duration and work habits. Evaluate their total work pattern.
- Self-help programs. Chronologically list participation in group activities for the period of time addressed in the report, such as group counseling, Alcoholics Anonymous and/or Narcotics Anonymous. This section should also include athletic participation, hobby, Inmate Advisory Council or any inmate documentable activity.
- Programs recommended by BPH. Chronologically list the program categories recommended and the degree of participation or reasons for noncompliance. List the current participation first.

Inmate Resources

Inmate resources and plans for release.

- Marital status/child support. Summarize present family situation such as married, single, common-law, or divorced. Report status of any marriage intent or returning to a marriage upon release. List obligations to pay family support in dollar amount, name of county and address of agency to receive payments.
- Employment. List job offers if the inmate has job commitments. Include employment address, phone number, type of work and proposed salary. If there are no job offers, the inmate's desires shall be noted. Indicate the relationship between the inmate's intent for employment and institutional work and vocational training.
- Other community resources. Indicate prior union membership, status of driving privileges, if driver's license is valid, and special employment needs, such as tools or clothes.
- Residence. List current county of commitment resources. Indicate name, address, and location of prospective residence upon release. If placement is to be with relatives or friends, review significant attitudes and reasons for this placement. List all phone numbers, directions to the address if in a rural area or a P.O. Box number. Indicate if the inmate will need assistance from the Parole Agent and note any financial resources the inmate may have to aid this placement.
- Alternative County of Parole. If inmate has alternative to county of commitment plans, list them in order of residence, with whom and relationship, any job offers, special needs to complete parole.

Counselor Evaluation

Counselor evaluation. (Analysis and professional judgment.)

- Attitude toward offense. Outline the commitment offense and the inmate's present attitude towards it. Note if the inmate's attitude is the same as when received or if it has changed. The inmate shall not be required to admit guilt or discuss factors if they choose not to.

- Institutional adjustment. Describe the inmate's overall behavior pattern in prison, effects of prison on their personality, and their rapport with staff and peers. Describe significant medical or emotional problems and treatment.
- Prognosis. Indicate if the inmate understands or foresees any problems they will face and if the inmate's release plans are realistic. Note if the inmate has developed social skills to cope with the stresses of society. Advise the Parole Agent of problem areas and positive traits. Provide a balanced opinion of readiness for release, being careful not to make a recommendation.
- Technical data. Indicate any holds or notices (agency and reasons). Current status of crime partner, including last Board action on crime partner if presently incarcerated. If enemy or gang affiliation exists, refer to the confidential folder if appropriate. Include any other significant information not covered above.
- Addenda. A chronological list of disciplinary reports shall be compiled and attached to the report. If a disciplinary violation occurs a day to two before the Board hearing, custodial staff shall provide the records office with a brief statement of the incident and an estimate of when the disciplinary process shall be completed.

62090.12 ISL Prisoner Progress Hearing

Progress Hearings are held to determine if a previously set parole date should be advanced because of the inmate's conduct. Parole dates may be advanced, but cannot be extended without a separate rescission hearing.

The Post-conviction Progress Hearing Report shall cover institutional history only from the date of the last Board hearing. Each progress report shall be a supplement to the report for the hearing in which parole was granted.

The Parole Consideration Hearing Report that was prepared for the hearing at which parole was granted and all progress reports shall become part of the permanent case summary.

62090.13 Psychiatric Evaluations Life Prisoners

The BPH requires a full psychiatric evaluation of life prisoners for all first Documentation, Initial and Subsequent Parole Consideration Hearings. An evaluation is also required for any Rescission Hearing based on psychiatric problems or assaulting/sexual behavior. Inmates shall be retained on psychiatric referral status unless specifically removed by a BPH panel.

Cases recommended to category X [explained in DOM 62080] shall be calendared to appear no sooner than in one year unless the panel specifically instructs that the inmate be calendared upon completion of the evaluation. Those inmates who refuse to participate in a BPH ordered evaluation shall be retained on psychiatric referral status and calendared on the scheduled calendar.

Psychiatric Evaluation Reports shall be completed and distributed to the inmate, the inmate's attorney and the DA at least 15 days before the hearing.

62090.13.1 Psychiatric Report Preparation

Brevity with accuracy and clarity is the standard for this report. A more detailed evaluation may be written and attached as an addendum to the report if the psychiatrist/psychologist determines it necessary.

Lay terminology and explanations of technical terms and diagnoses shall be used where possible. These reports become part of a legal record that may be used by many laymen, including the inmate. Accordingly, the report should not contain psychodynamic speculations or other material that may be easily misinterpreted. Information of value to the psychiatrist shall be explained in laymen's terms to avoid misunderstandings.

Detailed repetition of information that is available elsewhere in the inmate's C-File shall be avoided.

Previous psychiatric reports shall be retained in the case summary for reference. If the previous report is virtually the same as the current one, do not rewrite the entire report. Indicate that the case has been reviewed, there is no significant psychiatric change and the previous report is still accurate.

After the report has been written, any new developments in the case shall be reported on CDC Form 128-C, Medical - Psychiatric - Dental chrono, and sent to the C&PR for inclusion with the psychiatric evaluation.

62090.13.2 Psychiatric Report Format

Indicate in the first paragraph if this is the first, second, etc., report to the Board on this inmate, or if it is an addendum (less than nine months since the last evaluation).

Indicate in the second paragraph the frequency of contact with the inmate, such as if they are under treatment and how long, or if it is a single contact for this report only. For the first report only, note any pertinent previous psychiatric history with a short digest of essential conclusions and treatment. Briefly summarize the inmate's current development and progress, avoiding repetition of information available elsewhere in the inmate's C-File or in previous evaluations.

Briefly delineate, in the third paragraph, the present psychopathology supporting the diagnosis and prognosis which follow. Any previously reported psychiatric conclusion(s) shall be re-evaluated. Causative factors, self-understanding, attitudes, motivation for change, emotional stability, social identification, sincerity, and rehabilitation shall be commented on. A neurophysiological appraisal must be included if organicity is present. If drugs are being used for treatment, include the observed impact on the inmate's current condition.

The fourth paragraph shall indicate the psychiatric diagnosis(es) using standard nomenclature followed by lay term explanation, as necessary.

Psychiatric Conclusions

The fifth paragraph shall include the evaluator's best estimate of the inmate, based on psychiatric reasoning (not legal or administrative) in the following manner:

- Be sure to note the reasons wherever possible.
- Note the relationship of the diagnosed psychopathology to the criminal behavior.

General Conclusions

During observation in the institution, the inmate has:

- Psychiatrically improved slightly, moderately, or greatly.
- Psychiatrically deteriorated slightly, moderately, or greatly.
- Psychiatrically has shown no significant change.

No conclusions can be drawn because of insufficient time and observation by the reporter.

In a less controlled setting, such as return to the community, the inmate is:

- Considered likely to continue improvement.
- Considered likely to hold present gains.
- Considered in all probability to deteriorate because of (list reasons).

In all cases of pedophilia and some other cases of unusually specific or direct relationship between psychopathology and crime, add the following:

- Considered mentally (un)able to refrain from repetition of their offensive behavior.

Suggested Actions

(Include only if applicable.) From a psychiatric standpoint, the inmate should:

- Be continued in present rehabilitation program as continued benefit is likely. Note the recommended specific treatment prescription.
- Be removed from special calendar because psychopathology is not significantly related to future criminal behavior and psychiatric opinion will not contribute to release decision.

When two or more favorable psychiatric reports with similar conclusions for release have been written, in the case of more difficult judgments, these reports must have been written by more than one examiner or reviewed by a psychiatric council.

When there have been repeated unfavorable psychiatric reports describing a stable mental condition which cannot be expected to change, the conditions under which parole would be possible or become possible must be spelled out. For example, in some cases, parole might be possible only to a supervised domicile program including psychiatric care. In recommending removal from psychiatric calendar because of repeated unfavorable reports, it must be recognized that release is prohibited and therefore, those changes that would make release possible should be

indicated so that the Board will request re-evaluation when such changes do occur.

When the inmate should be considered for transfer to DMH under PC 2684 or DMH inpatient/day treatment at CMF, and it is anticipated that such treatment may result in the inmate being able to return to society; DMH, (if it accepts the transfer) will retain such inmates only as long as it is of benefit to the inmate.

Parole and Release

If the inmate is to be paroled or released, consideration should be given to the following:

- Violence potential outside a controlled setting in the past is considered to have been less than average, average, or greater than average and at present, is estimated to be decreased, increased, or the same. In this context, violence potential is equated with inflicting physical harm on others or great emotional harm, as by creating fear. Average violence potential is interpreted to mean the violence potential possessed by the average inmate.
- Conditions of parole should include inpatient treatment, outpatient clinic, halfway house, no alcohol or other special attention/supervision needs as indicated.
- If outpatient clinic is recommended, indicate if:
 - Mandatory for parole from institution.
 - Necessary as soon as possible after parole.
 - Merely desirable if available.

Inmates convicted of PC 273A, Willful Cruelty Toward Child/Endangering Life, Limb or Health and PC 273D, Inflicting Corporal Punishment Upon Child Resulting in Traumatic Injury, shall have a psychiatric evaluation to determine the extent of counseling which may be mandated as a condition of parole per PC 3002.

Applicable cases shall be referred for an evaluation in sufficient time to enable the report to be completed and included with the Release Program Study (CDC Form 611), which is referred to the Division of Adult Parole Operations.

Drug therapy should be continued while the inmate is on parole. They should receive (name drug), in a dosage (amount), (number) times a day.

Recommendations to the classification committee (prior to release):

- Indicate what the Post Board Classification Committee should do with the inmate if the inmate is denied parole.
- If a parole date is set, indicate any recommendation(s) pertinent to the period remaining in the institution before parole such as:
 - A further psychiatric evaluation should be completed just prior to release.
 - Indicate the reasoning for all recommendations.

62090.14 Preparation of Clinical Reports by Counselors

There may be occasions when large numbers of psychiatric referrals and limited psychiatric staff may require that qualified CC-IIs prepare clinical reports, in lieu of psychiatric evaluations, for selected cases and under supervision of a Board certified psychiatrist or licensed psychologist.

The format for psychiatric evaluations shall be used by the counselor except the title of these reports shall be changed to "clinical evaluation". Those areas of the format that call for psychiatric diagnosis and psychiatric conclusions shall be changed to indicate personality description and conclusion(s).

Counselors shall not prepare nor sign as its originator any report/evaluation that implies by its title or description that it was prepared by a psychiatrist or psychologist.

A psychiatrist/psychologist shall not sign as their own report, a report bearing a psychiatric title or description which was prepared by a counselor, without having personally interviewed the inmate.

62090.14.1 Procedures

PC 5068 sets forth the basis for the above directives. To this end, the following procedures are established:

- When existing staff or consulting psychologists or psychiatrists can adequately handle the evaluation workload, counselors shall not prepare clinical evaluations in lieu of the psychiatric evaluations.
- Counselors who are to prepare clinical evaluations shall be selected on the basis of their:
 - Special interest in this type of work.
 - Having two years of graduate training and experience in the treatment or evaluation of emotionally disturbed individuals. If the two years of training is primarily academic, supervised field work is highly desired.
- Where appropriate, a psychiatric council shall be established to review such evaluations prepared by counselors.
- The council shall be composed of the institution's chief or program psychiatrist/consulting psychiatrist (chairperson), a clinical psychologist, a captain or CC-III and the counselor who prepared the evaluation.
- Custodial personnel who are familiar with the inmate's behavior and attitude may also be included on the council.
- The psychiatric council has final responsibility for the accuracy and quality of the report.
- If the report is accepted, it shall list the names of the council and be signed by the council's psychiatrist.

Supplemental Findings

- If the council determines there are supplemental findings or recommendations, they shall be added below the counselor's signature and endorsed by the council, as above.
- If there is a difference in the findings of the counselor and the council, the council shall set forth the reasons for their difference of opinion before endorsing the counselor's report.
- The report shall retain the clinical evaluation title unless the psychiatrist personally interviews the inmate.
- After the inmate has been interviewed, the report may be retitled a psychiatric evaluation and signed by the psychiatrist or psychologist.
- The council shall make every effort to interview the inmate when the report is reviewed. Every effort shall be made to maximize the number of inmate interviews to ensure these evaluations reflect the observations of our most highly trained professional personnel.
- Graduate students working towards a doctorate degree in psychology and CC-IIs who are working towards becoming qualified to prepare clinical evaluations for the Board, may prepare such reports under the direct supervision of a licensed staff psychologist or a Board certified psychiatrist.
- Evaluations prepared by students and trainees shall be signed by the student/trainee.
- The evaluation shall be approved and endorsed by a staff psychologist, psychiatrist or the psychiatric council.

62090.15 Revisions

The Deputy Director, Division of Adult Institutions, or designee shall ensure that the content of this article is current.

62090.16 References

PC §§ 3040, 3041, 5058, 5068, and 1168(b).

CCR (15) (2).